

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ROBERT ZIMMERMAN

Plaintiff,

v.

No. 17-cv-4503-JMF

UBS AG et al.,

Defendants.

**DECLARATION OF KEVIN J. O'BRIEN**

Kevin J. O'Brien hereby declares, pursuant to 28 U.S.C. § 1746, as follows:

1. I am attorney with the law firm of King & Spalding LLP, which represents Ernst & Young LLP in the above-captioned action. I respectfully submit this Declaration in support of Ernst & Young LLP's Motion to Dismiss Plaintiff's First Amended Complaint (the "Amended Complaint").

2. A true and correct copy of the complete Product Supplement to the November 14, 2014 Prospectus (the "Product Supplement"), as obtained from the EDGAR database of the Securities and Exchange Commission ("SEC"), is attached as Exhibit A.<sup>1</sup> The Product Supplement was filed with the SEC and is available from the EDGAR database at: <https://www.sec.gov/Archives/edgar/data/1114446/000119312514413502/d818453d424b2.htm>.

3. A true and correct copy of the complete Prospectus dated November 14, 2014 (the "CEFL Prospectus"), as obtained from the SEC's EDGAR database, is attached as Exhibit B.<sup>2</sup> The CEFL Prospectus was filed with the SEC and is available from the EDGAR database at: <http://www.sec.gov/Archives/edgar/data/1114446/000119312514413375/d816529d424b3.htm>.

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<sup>1</sup> Excerpts of the Product Supplement are appended to the Amended Complaint as Plaintiff's Exhibit F.

<sup>2</sup> Excerpts of the CEFL Prospectus are appended to the Amended Complaint as Plaintiff's Exhibit C.

4. A true and correct copy of the 2013 Annual Report of UBS AG, as obtained from the SEC's EDGAR database, is attached as Exhibit C. The 2013 Annual Report of UBS AG was filed with the SEC (on Form 20-F) and is available from the EDGAR database at: <https://www.sec.gov/Archives/edgar/data/1114446/000119312514099050/d689466d20f.htm>.

5. A true and correct copy of the 2015 Annual Report of UBS AG, as obtained from the SEC's EDGAR database, is attached as Exhibit D.<sup>3</sup> The 2015 Annual Report of UBS AG was filed with the SEC (on Form 20-F) and is available from the EDGAR database at: <https://www.sec.gov/Archives/edgar/data/1114446/000161052016000037/20f2015.htm>.

6. A true and correct copy of the 2016 Annual Report of UBS AG, as obtained from the SEC's EDGAR database, is attached as Exhibit E.<sup>4</sup> The 2016 Annual Report of UBS AG was filed with the SEC (on Form 20-F) and is available from the EDGAR database at: <https://www.sec.gov/Archives/edgar/data/1114446/000161052017000008/ar1620f.htm>.

7. The Court may take judicial notice of each of the documents referenced above because each was filed with the SEC. *See, e.g., Garber v. Legg Mason, Inc.*, 347 F. App'x 665, 669 (2d Cir. 2009) (court may take judicial notice of regulatory filings like SEC filings); *Richman v. Goldman Sachs Grp., Inc.*, 868 F. Supp. 2d 261, 273 (S.D.N.Y. 2012) (“[T]he Court can take judicial notice of SEC filings.”).

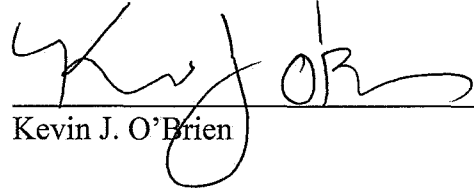
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<sup>3</sup> Excerpts of the 2015 Annual Report of UBS AG are appended to the Amended Complaint as Plaintiff's Exhibit E.

<sup>4</sup> Excerpts of the 2016 Annual Report of UBS AG are appended to the Amended Complaint as Plaintiff's Exhibit X.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed on January 31, 2018

  
Kevin J. O'Brien